

APPENDIX.

Alabama Constitution of 1901.

"Sec. 144. A circuit court, or a court having the jurisdiction of the circuit court, shall be held in each county in the state at least twice in every year, and judges of the several courts mentioned in this section may hold court for each other when they deem it expedient, and shall do so when directed by law. The judges of the several courts mentioned in this section shall have power to issue writs of injunction, returnable to the courts of chancery, or courts having the jurisdiction of courts of chancery."

Code of Alabama of 1940.

Title 7.

"§ 1038. Injunctions may be granted, returnable into any of the circuit courts in this state, by the judges of the supreme court, court of appeals, and circuit courts, and judges of courts of like jurisdiction."

"§ 1039. Registers in circuit court may issue an injunction, when it has been granted by any of the judges of the appellate or circuit courts when authorized to grant injunctions, upon the fiat or direction of the judge granting the same indorsed upon the bill of complaint and signed by such judge."

Code of Alabama—Recompiled 1958.

Title 7.

(APPENDIX)

Supreme Court Rule 47.

“Appeals Involving Extraordinary or Remedial Writs.

In all appeals involving extraordinary or remedial writs, these rules shall apply unless the court orders otherwise. In appeals from judgments or decrees rendered in habeas corpus, injunction, certiorari, supersedeas, quo warranto, mandamus, prohibition, and appointing or refusing to appoint a receiver proceeding, the appellant within five days after the appeal has been taken, or the appellee within five days after service of the notice of appeal, may petition this court to reduce the time for the filing of briefs in the cause and to specify an earlier date for submission of the appeal. Adversary counsel shall be given three days notice of the date and time of the proposed presentation of the petition to the court. Upon presentation of the petition, the court may prescribe time limitations for the filing of briefs and for submission which are less than otherwise prescribed by the rules, if the court is of the opinion that the normal time allowed by these rules for filing of briefs and submission of the appeal would work injustice, or the appeal involves a question of great public interest affecting the public good and requires an earlier filing of briefs and submission of the appeal. When the court is not in session, such petition may be presented to and acted upon by the senior accessible member of the court.

The provision of this rule providing for the earlier filing of briefs and earlier submission of a cause shall not apply in any case where the appellant, because of uncertainty as to his remedy, seeks relief by mandamus as

an alternative to his appeal, nor to appeals in cases where the injunctive relief involved was merely incidental to other relief sought."

Code of Alabama of 1940.

Title 36.

Section 58.

"(14). Pedestrians subject to traffic regulations.

(a) Pedestrians shall be subject to traffic-control signals at intersections as provided in section 58 (37) of this title, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in sections 58 (1) to 58 (52).

(b) Local authorities are hereby empowered by ordinance to require that pedestrians shall strictly comply with the directions of any official traffic-control signal and may by ordinance prohibit pedestrians from crossing any roadway in a business district or any designated highways except in a crosswalk."

"(15). Pedestrians' right of way in crosswalks.

(a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. This provision shall not ap-

ply under the conditions stated in subdivision (b) of section 58 (16) of this title.

(b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle."

"(16). Crossing at other than crosswalks.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk."

"(18). Pedestrians to use right half of crosswalks.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks."

"(19). Pedestrians on roadways.

(a) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when practi-

cable walk only on the left side of the roadway of its shoulder facing traffic which may approach from the opposite direction."

Code of Alabama of 1940.

Title 37.

"Sec. 505. Abating Nuisances.

All cities and towns of this state shall have the power to prevent injury or annoyances from anything dangerous or offensive, or unwholesome and to cause all nuisances to be abated and assess the cost of abating the same against the person creating or maintaining the same."

"Sec. 506. Enjoining public nuisance.

Municipalities may maintain a bill in equity to enjoin and abate any public nuisance, injurious to the health, morals, comfort or welfare of the community, or any portion thereof."

**General City Code of the City of
Birmingham of 1944.**

"Sec. 1142. Streets and sidewalks to be kept open for free passage.

Any person who shall obstruct any street or sidewalk with any animal or vehicle, or with boxes or barrels, glass, trash, rubbish or other like things, so as to obstruct the free passage of persons on such streets or sidewalks, or who shall assemble a crowd or hold a public meeting in any street without a permit, shall, on conviction, be punished as provided in section 4.

It shall be unlawful for any person or any number of persons to so stand, loiter or walk upon any street or

sidewalk in the city as to obstruct free passage over, on or along said street or sidewalk. It shall also be unlawful for any person to stand or loiter upon any street or sidewalk of the city after having been requested by any police officer to move on."

"Sec. 1231. Obedience to police.

It shall be unlawful for any person to refuse or fail to comply with any lawful order, signal or direction of a police officer."

"Sec. 1357. Use of zones by pedestrians.

Pedestrians shall enter marked safety zones only at street intersections by passing over that part of the street which is included within the sidewalk lines projected at right angles to the curb line and at right angles to said safety zones, and in leaving safety zones such pedestrians shall cross the street only at street intersections by passing over that part of the street which is included within the line of the sidewalk projected at right angles to the curb."

Traffic Code of the City of Birmingham.

Article III.

"Section 3-1. Authority of Police and Fire Department Officials.

(a) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws of this city and all of the State vehicle laws applicable to street traffic in this city.

(b) Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws."

"Section 3-2. Required Obedience to Traffic Code.

It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this code."

"Section 3-3. Obedience to Police and Fire Department Officials.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official."

Traffic Code of the City of Birmingham.

Article X.

"Section 10-3. Pedestrians to Use Right Half of Cross Walks.

Pedestrians shall move, whenever practicable, upon the right half of cross walks."

"Section 10-4. Crossing at Right Angles.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the

shortest route to the opposite curb except in a cross walk."

"Section 10-5. When Pedestrian Shall Yield.

(a) Every pedestrian crossing a roadway at any point other than within a marked cross walk or within an unmarked cross walk at an intersection shall yield the right-of-way to all vehicles upon the roadway."

"Section 10-6. Prohibited Crossing.

(a) Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a cross walk.

(b) No pedestrian shall cross a roadway other than in a cross walk in any business district.

(c) No pedestrian shall cross a roadway other than in a cross walk upon any through street."

"Section 10-8. Pedestrians Walking Along Roadways.

(a) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway."

General City Code of Birmingham of 1944.

"Sec. 804. Punishable as a misdemeanor.

Any person who creates or causes, or who, being the owner or agent in control, permits any nuisance or the existence of anything likely to be prejudicial to the health or comfort, or offensive to the senses of, ordinary citizens on or about any lot; place or premises is guilty of a misdemeanor, and any person who creates or causes any nuisance or anything likely to be prejudicial to the health or

comfort or offensive to the senses of ordinary citizens upon any lot, street or other public way or place is guilty of a misdemeanor."

"Sec. 311. Disorderly conduct defined.

Any person who disturbs the peace of others by violent or offensive conduct, . . . or any person who shall commit any act or diversion causing or tending to a breach of the peace, . . ."

Editorial.

THE DALLAS MORNING NEWS FRIDAY, OCTOBER 14, 1966

This editorial, entitled "Court Agrees to Face a Dilemma", after discussing the Church-State issue involved in the Maryland atheists suit seeking to abolish the State's tax exemptions for church buildings, in which certiorari was denied by this Honorable Court, went on to discuss the Wyatt Tee Walker case. That part of the editorial dealing with such case is quoted verbatim as follows:

"Although the refusal is significant (and quite welcome), it is far less important than an accompanying announcement that the court will review the contempt-of-court convictions of the Rev. Martin Luther King and seven other leaders of the 1963 race demonstrations in Birmingham.

In deciding this case, the justices will be confronted with a dilemma that makes the church-state question as simple as Batman comics.

The Rev. King's group inquired about obtaining a parade permit prior to the 1963 Birmingham demonstration and was referred by city officials to Police Commissioner Eugene (Bull) Conner. Conner refused to issue a permit.

Later, a state court issued an injunction prohibiting King's Southern Christian Leadership Conference from parading without a permit. King announced that his group would defy the ban. On Good Friday and Easter he and other SCLC leaders led massive marches in Birmingham. They were convicted of contempt of court, fined \$50 each and sentenced to five days in jail.

Explaining his defiance of the injunction, King said at the time: 'We cannot in all good conscience obey such an injunction which is an unjust, undemocratic and unconstitutional misuse of the legal process.'

King's explanation, of course, was a summation of his controversial 'civil disobedience' doctrine that contends a man is not obliged to obey a law he believes to be unjust if he is willing to accept the punishment for his violation of the law.

And herein lies the high court's dilemma. King's case is based on his civil disobedience doctrine. In defense of defying the injunction, he makes three claims:

The city law requiring a parade permit was unconstitutionally vague and discriminatorily applied and, therefore, the parades conducted without a permit were not unlawful.

The injunction against parading without a permit was void because it infringed on constitutional rights of free speech and assembly. 'In all good conscience we cannot obey unjust laws . . . neither can we obey unjust use of the courts,' King's position argues.

And, finally, had King paused to litigate the injunction his protest movement in Birmingham would have lost its momentum.

In response, Birmingham officials cite a long string of Supreme Court cases that held a person must obey a court's injunction—even if it is unjust or erroneous—and challenge it upon appeal.

To permit each person to decide for himself which injunctions should be obeyed would lead to chaos, they contend.

So the issue is squarely drawn, perhaps for the first time, for the high tribunal. Simply put (perhaps, too simply), it asks if the individual has the right to defy a court order and, instead of appealing to a higher court for relief from the order, take his appeal to the streets.

— Should the Supreme Court uphold the vital role of our judicial system by ruling that King should have obeyed the state court's injunction until its legality was decided by higher courts, a process that might have taken weeks?

What if the justices find Birmingham's parade law unconstitutional?

What if they find the injunction was unconstitutional?

What if they find the injunction was issued merely as a device to rob King's drive of its momentum?

The questions are as numerous as they are perplexing. But there is only one issue: Does the individual have the right to flaunt a court order, regardless of whether the order is right or wrong?

There is only one single and obvious answer. And, church-state relationship aside, God help our system of rule by law if the court arrives at any other."